IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 11822 of 2004

Between:

M/S JCB India Limited RTC Colony, L.B.Nagar, Hyderabad
rep. by its Regional Manager, Mr. K.J.B.Achari

..... PETITIONER

AND

1 The Assistant Commissioner (CT) (LTU) Hyderabad Rural Division, Hyderabad
2 The Appellate Deputy Commissioner (CT) Hyderabad Rural Division, Hyderabad
3 The Additional Commissioner (CT) Legal Andhra Pradesh , Nampally , Hyderabad
4 The Deputy Commerical Tax Officer Saroornagar Circle, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ or order or direction quashing the order of 3rd Respondent in CCT's Ref.L.III(3)/1069/2004 dt.30/06/2004 as arbitrary, unreasonable and unjustified and consequently restrain the 1st and 4th Respondents from taking any coercive steps for collection of the balance disputed tax of Rs. 1,25,66,142/- for the assessment year 2003-04 pending disposal of the appeal before the 2nd Respondent and also direct the 1st Respondent to dispose of the petition filed under Rule 50 of the APGST Rules filed by the Petitioner on 26/06/2004.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY, Advocate.

Counsel for the Respondent : GP FOR COMMERCIAL TAXES

The Court at the stage of admission, made the following :

ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. Counsel for Petitioner submits that in the meantime he had deposited Rs.27,90,700/-. The respondents shall give credit to that also, if paid. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(Bilal Nazki, J)

12th July, 2004.

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(P.S.Narayana, J)

ajr.

To

1 The Assistant Commissioner (CT) (LTU) Hyderabad Rural Division, Hyderabad
2 The Appellate Deputy Commissioner (CT) Hyderabad Rural Division, Hyderabad
3 The Additional Commissioner (CT) Legal Andhra Pradesh , Nampally , Hyderabad
4 The Deputy Commerical Tax Officer Saroornagar Circle, Hyderabad

5 Two C.Cs. to the Government Pleader for Transport, High Court buildings, Hyderabad (O.U.T).

6 Two C.D. Copies.